

Appln. No.: 10/085,910
Response dated February 27, 2009
Reply to Office Action of January 12, 2009

REMARKS/ARGUMENTS

The Office Action of January 12, 2009, has been carefully reviewed and these remarks are responsive thereto. Claims 1, 3-23, 31-42, 44, 46, and 47 remain pending. No new subject matter has been added. Reconsideration and allowance of the application are respectfully requested.

Rejections Under 35 U.S.C. § 103

Claims 1, 6-8, 21, 23, 31, 33-38, 41, 42, and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson (U.S. Pat. No. 5,513,246) in view of Chen (U.S. Pat. No. 6,731,936), and further in view of Malek (U.S. Pat. No. 5,822,313) and Upton (U.S. Pat. No. 5,784,695).

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Ahopelto (U.S. Pat. No. 5,970,059).

Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Official Notice.

Claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Taketsugu (U.S. Pat. No. 5,420,863).

Claims 9-14, 16, 18-20, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, and further in view of Makinen (U.S. Pat. No. 5,764,700), and further in view of Upton.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Doshi (U.S. Pat. No. 5,936,965).

Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Malek, and Upton, and further in view of Doshi.

Claims 40 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Malek.

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of Lim (U.S. Pat. No. 6,766,168).

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Claim 47 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jonsson, in view of Chen, Makinen, and Upton, and further in view of TR 101 190 V1.1.1 (1997-12) Digital Video Broadcasting (DVB); Implementation Guidelines for DVB Terrestrial Services; Transmission Aspects.

These rejections are traversed for at least the following reasons.

Independent claim 21 recites, among other features, “. . . when said second bit-error rate is less than said quasi-error-free value, *the mobile terminal . . . switching reception to said second wireless transmitter.*”

The Office Action at page 2; paragraph 2 (“Response to Arguments”) contends that Jonsson at col. 9, lines 1-8 describes that “the handover does not necessarily needs [sic] to be done by mobile service center and may be done by mobile station.” Applicants respectfully disagree with this contention. Jonsson at col. 9, lines 1-8 is reproduced below, and nowhere in the passage does Jonsson state that handover may be done by a mobile station:

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In a preferred embodiment of the present invention, a locating function of FIG. 5, to be presently described, whereby a mobile station is located relative to cell boundaries, is performed in the mobile services center under the control of the central processor. The base stations merely try to effectuate the decision of the mobile services center with regard to handoff. Such a division of labor is not, however, necessary to the practice of the present invention.

Applicants submit that an adjustment/modification to the division of labor in Jonsson would result in the handoff being performed at the base stations, as opposed to the handoff being performed by the mobile station. See also Jonsson at col. 9, line 9 – col. 11, line 19 (describing a base station sending the mobile station a set of channels to monitor, with the base station performing an evaluation of channel measurement results received from the mobile station and preparing a candidate list of alternative base stations for handover). In short, in Jonsson a handover operation is effectuated by at least one of the mobile services center and the base stations (and not the mobile station). Indeed, one of ordinary skill in the art would have

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appreciated that the handover in Jonsson must have been performed by at least one of the mobile services center and the base stations; otherwise, the handover would have been inoperative in Jonsson.

Furthermore, as discussed at pages 11-12 of Applicants' Response and Request For Reconsideration filed October 29, 2008, the contents of which are incorporated herein by way of reference, one skilled in the art would not have had a reason to modify Jonsson to incorporate the alleged teachings of Chen because doing so would result in an unnecessary duplication of computing resources. In particular, computing resources related to performing a switching of reception as recited in claim 21 would be located at both the mobile services center/base stations and the mobile terminal once the proposed combination of Jonsson and Chen was formulated. Thus, one skilled in the art, starting from Jonsson's switching mechanism located at the mobile services center/base stations, would not have had an apparent reason to incorporate Chen's alleged teachings of performing the switching at a mobile terminal. As such, Applicants respectfully submit that the combination of references is improper for at least these reasons. Thus, claim 21 is allowable, as no other combination of the applied references discloses all of the features of claim 21 (notwithstanding whether any such other combination is proper).

Independent claim 9 recites, among other features, "an election module for switching reception of the mobile terminal from the first wireless transmitter to the second wireless transmitter . . ." For reasons substantially similar to those discussed above with respect to claim 21, the combination of Jonsson and Chen is improper because one skilled in the art, starting from Jonsson, would not have had a reason to incorporate the alleged switching functionality located at a mobile station of Chen. As such, claim 9 is allowable for at least similar reasons.

Independent claims 1, 16, 24, 31, and 36 recite features similar to those described above with respect to claim 21. Claims 1, 16, 24, 31, and 36 are allowable for at least similar reasons.

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The dependent claims are allowable for at least the same reasons as their respective base claims because any of the additional reference(s) fail to cure the deficiencies of the references applied to the base claims.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the examiner believes the application is not in condition for allowance or there are any questions, the examiner is requested to contact the undersigned at (202) 824-3153.

Respectfully submitted,

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